

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JOHN DOE HM, <i>an individual</i> ,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:07CV00946 ERW
)	
CITY OF CREVE COEUR, MISSOURI,)	
et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter comes before the Court on Notice of Plaintiff's Failure to Comply with this Court's August 29, 2008 Memorandum and Order [doc. #46]. On August 29, 2008, the Court ordered Plaintiff to answer Interrogatories 3, 5, 7, 8, 10, 12, 13, 14, 15, 16, 17, 18 and 22 and to provide the copies and documentation Defendants seek in their Requests for Production 2, 3, 23, 27, 32 and 33.¹ Additionally, the Court ordered Plaintiff to complete the HIPPA release attached to Defendant's Requests for Production and awarded expenses and attorney's fees in the amount of \$4,000.00 to Defendants.

In their Notice, Defendants state that Plaintiff has failed to fully comply with the Court's Memorandum and Order. Defendants state that Plaintiff has completed the HIPPA release, and has supplemented his initial responses to Interrogatories 3, 5, 7, 12, 14, 15, 16, 17, 18, 20 and 22. However, this Notice states that Plaintiff has not supplemented his initial response to Interrogatories 8 and 10, and has failed to provide supplemental responses to Defendants'

¹ Request for Production 33 asks that Plaintiff complete and execute a Social Security Administration Consent for Release of Information. The Court compelled Plaintiff to complete this form only if Plaintiff has applied for Social Security Disability Benefits.

Requests for Production 2, 3, 23, 27, 32² and 33. Additionally, Defendants state that Plaintiff's response to Interrogatory 3 continues to be incomplete as Plaintiff has failed to provide a street or apartment number for his Olive Lake Drive address, and has not provided an address for the July 2004 - November 2004 period. Defendants also assert that Plaintiff has not fully responded to Interrogatory 22 because he has not provided a telephone number for Plaintiff's brother, Michael Doe. Finally, Defendants have given the Court notice that they have not yet received the \$4,000 in expenses and attorney's fees the Court awarded to Defendants.

Nearly three weeks have passed since the Court's Memorandum and Order was issued, and Plaintiff has failed to obey the Court's Order. The Federal Rules permit courts to impose sanctions upon parties who fail "to obey an order to provide or permit discovery." Fed. R. Civ. P. 37(b)(2)(A). Many sanctions are authorized under this Rule, including the dismissal of the action. Fed. R. Civ. P. 37(b)(2)(A)(v). Dismissal of an action with prejudice is appropriate only where the party engages in "willful disobedience of a court order." As the Court's August 29, 2008 Memorandum and Order did not set a deadline for compliance, the Court does not yet consider Plaintiff's failure to be "willful." However, the Court now sets a deadline for compliance of **SEPTEMBER 22, 2008 at 5:00 p.m.** The Court will consider Plaintiff's failure to meet this deadline as "willful" and the imposition of sanctions would be appropriate.

IT IS HEREBY ORDERED that Plaintiff must supplement his response to Interrogatories 8 and 10, and Defendants' Requests for Production 2, 3, 23, 27 and 33 by **SEPTEMBER 22, 2008 at 5:00 p.m.**


² Request for Production 32 asks that Plaintiff complete a HIPPA release. Defendants state that Plaintiff completed this release, and accordingly, the Court believes Defendants' inclusion of Request for Production 32 in this list to have been in error.

IT IS FURTHER ORDERED that Plaintiff must provide a complete response to Interrogatory 3, including the street or apartment number for his Olive Lake Drive address, and the address(es) at which he resided from July 2004 - November 2004 by **SEPTEMBER 22, 2008** at **5:00 p.m.**

IT IS FURTHER ORDERED that Plaintiff fully respond to Interrogatory 22, including the telephone number for Plaintiff's brother, Michael Doe, by **SEPTEMBER 22, 2008** at **5:00 p.m.**

IT IS FURTHER ORDERED that Plaintiff must pay the \$4,000 in expenses and attorney's fees the Court awarded to Defendants by **SEPTEMBER 22, 2008** at **5:00 p.m.**

Dated this 18th Day of September, 2008.


E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE